

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION

MARINE PROS II, LTD.,

Plaintiff,

File No. _____

-vs-

BENNINGTON MARINE, LLC,

Defendant.

NOTICE OF REMOVAL

The Defendant, Bennington Marine, LLC ("Bennington"), by its attorneys, Godfrey, Leibsle, Blackbourn & Howarth, S.C., files this notice of removal under 28 U.S.C. §§ 1441(a) and 1446, to the United States District Court for the Eastern District of Wisconsin, Milwaukee Division, and states as follows:

1. On August 15, 2006, Plaintiff, Marine Pros II, Ltd. ("Marine Pros"), filed a complaint in the Circuit Court of Walworth County, Wisconsin, Case No. 06-CV-00684. Copies of the Summons and Complaint in the action were served upon Bennington on August 29, 2006, and are attached to this Notice of Removal. No other process, pleadings, or orders in the state court action have been served on Bennington.

2. Presently and at the time the complaint was filed, Marine Pros has been a Wisconsin corporation with its principal place of business in Whitewater, Wisconsin.

3. Presently and at the time the Complaint was filed, Bennington has been a limited liability company, with its principal place of business in Elkhart, Indiana. The five members of Bennington and their citizenship are as follows:

- (1) two individuals as joint tenants, both of whom are citizens of Arizona;
- (2) A trustee that is a citizen of California;
- (3) A trustee that is a citizen of California;
- (4) A Maryland LLC, none of whose members is a citizen of Wisconsin;
- (5) A Massachusetts LLC, none of whose members is a citizen of Wisconsin;

4. Marine Pros' complaint alleges violation of the Wisconsin Fair Dealership Act, and specifically alleges that Bennington failed to "repurchase all inventories sold to Marine Pros II at fair wholesale market prices as is required by Sec. 135.045, Wis. Stats." (Compl. ¶ 9.)

5. The fair wholesale market value of inventory that Marine Pros alleges Bennington must repurchase exceeds \$75,000. To the best of Bennington's knowledge, that inventory includes eight boats, each of which exceeds \$20,000 in wholesale value.

6. The United States Court for the Eastern District of Wisconsin has original jurisdiction over this action under 28 U.S.C. § 1332, because this action is between

citizens of different states and the matter in controversy exceeds \$75,000.

7. The time permitted by statute for filing this Notice of Removal has not yet expired.

8. True and correct copies of this Notice of Removal will be filed with the Circuit Court of Walworth County, Wisconsin, and served on Marine Pros.

WHEREFORE, Bennington hereby removes this action to the United States District Court for the Eastern District of Wisconsin, Milwaukee Division.

Dated this _____ day of September, 2006.

GODFREY, LEIBSLE, BLACKBOURN &
HOWARTH, S.C.
Attorneys for Defendant

By: _____
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